

U.S. Department of Justice
United States Attorney
Southern District of Florida

West Palm Beach, FL 33401

[REDACTED]
Facsimile: [REDACTED]
September 6, 2006

DELIVERY BY FACSIMILE

[REDACTED], Esq.
Counsel to the Clerk of Court and Comptroller
15th Judicial Circuit of Florida
West Palm Beach, Florida

Re: Federal Grand Jury Subpoena

Dear Ms. [REDACTED]:

Thank you for your agreement to accept service of the attached subpoena by facsimile. As I discussed with [REDACTED], the Clerk of Court is the custodian of the transcripts ^{Fl} of the state grand jury proceedings. Ms. [REDACTED] asked me to inform you that the transcripts are kept in the Circuit's Criminal Department. Florida Statute Sections 905.17(1) and 905.27 discuss the disclosure of state grand jury transcripts. Pursuant to those statutes, a transcript can be released upon an order of "a court." The statutes do not require that the order be issued by the Palm Beach County Court.

I have attached two cases regarding the procedures for obtaining state grand jury transcripts for use in federal grand jury investigations. The cases that I have enclosed suggest that the appropriate way is to issue a federal grand jury subpoena to the party currently in possession of the tapes and/or transcripts of the proceedings. The cases that I have enclosed both involve orders issued by a federal court that compel the production of the transcripts.

If the Clerk of Court feels that she cannot comply with the grand jury subpoena absent an order from the United States District Court compelling the production, then you must file a motion to quash the grand jury subpoena before the United States District Judge who empaneled the federal grand jury. Alternatively, if you like, you can state in writing your inability to produce the transcript absent a court order, and I can proceed before the United States District Judge by filing a motion to [REDACTED], Esq.

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compel with a proposed order for the United States District Judge to sign. If you prefer to file your own motion, I can assist in notifying the Court of the motion, which should be filed ex parte and under seal in accordance with Federal Rule of Criminal Procedure 6(e)(5) and (6).

The subpoena calls for the production of the tape(s) or transcripts by September 15, 2006. If you need any additional time, please let me know.

If you have any questions or concerns, please do not hesitate to call me. Thank you for your assistance.

Sincerely,

By:

[REDACTED]

Assistant United States Attorney

cc: [REDACTED]

^{Fl}I do not know whether the grand jury proceedings have yet been transcribed. The enclosed subpoena calls for the tapes *or* the transcripts. If you would prefer to produce the tapes to be transcribed by one of our grand jury stenographers, that would satisfy the subpoena. If the Clerk of Court would prefer to have one of the state court stenographers do the transcription, production of the transcripts also would suffice.

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